

# **WISCONSIN LEGISLATIVE COUNCIL STAFF**

## ***RULES CLEARINGHOUSE***

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## **CLEARINGHOUSE RULE 96-118**

### **Comments**

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]**

#### **1. Statutory Authority**

a. Section 165.85 (4) (b) 1., Stats., requires the board, among other things, to promulgate a rule providing a “specific curriculum” for a 400-hour conventional program. The board should review s. LES 3.03 to determine if the rule complies with the statutory requirement of providing a specific curriculum.

Furthermore, does the rule comply with the more specific statutory requirements for training related to domestic abuse and emergency detention and protective placement? [Again, see s. 165.85 (4) (b) 1., Stats.]

b. Does s. LES 3.04 comply with the specific training requirements of s. 165.85 (4) (b) 2. and 3., Stats.?

c. Section LES 5.01 (1) (b) requires reimbursement of full salary expenses for the last 24 hours of preparatory jail or secure detention training. Section 165.85 (5) (b), Stats., requires reimbursement of approved expenses for tuition, living and travel expenses for the first 120 hours of jail or secure detention officer preparatory training. The rule should be reviewed for compliance with the statutory provision.

#### **2. Form, Style and Placement in Administrative Code**

a. The introductory clause to the rule is improperly drafted. [See s. 1.02 (1), Manual.] The clause should read as follows: “The law enforcement standards board proposes an order to

renumber LES 1.03 (1) to (25); to amend LES 1.02, 1.03 (3), (19), (22) and (23), 2.01 (1) (intro.), (e) and (g), 3.01 (1) (intro.), (a) and (c) and (2) (intro.) and (a), 3.05 (2) to (9), 4.01 (1) and (3), 4.02 (1) (a), 6.01, 6.02 and 6.03; to repeal and recreate LES 2.01 (1) (f), 3.01 (1) (b) and (2) (b), 3.03, 3.04 and 5.01; and to create LES 1.03 (1), (17m) and (18m), relating to [supply an appropriate relating clause].”

b. The arrangement of SECTIONS in the rule is incorrect. [See, generally, s. 1.04, Manual.] The grouping of SECTIONS treated in the introductory clause does not determine the sequence of SECTIONS in the rule, which generally are arranged in the numerical order of the decimal-numbered provisions as they appear in the rules at the time of drafting. As presently arranged, the rule and the analysis are much more difficult to follow than if the SECTIONS of the rule were arranged in the proper sequence.

c. SECTIONS 1 and 3 should be combined and the treatment clause rewritten. [See s. 1.04 (2), Manual, for guidance.] However, a simpler method of inserting a new definition of “accredited” would be to renumber current s. LES 1.03 (1) to be s. LES 1.03 (1m) and to create the definition of “accredited” in sub. (1). This would eliminate the need to renumber the remaining definitions. Also, it is noted that SECTIONS 20 and 21 create subs. (17m) and (18m) of s. LES 1.03. However, the new definitions should follow current subs. (24) and (25) in order to be in alphabetical order.

d. In s. LES 1.02, “~~and~~” should precede the adjacent underscored material. [See s. 1.06 (1), Manual.] This error should be corrected throughout the rule.

e. In s. LES 1.03 (19), the board may wish to take this opportunity to replace “is” with “means.” See, also, s. LES 1.03 (23). The board may also wish to consider using this opportunity to define “political subdivision” in s. LES 1.03 (19) to also include town sanitary districts. See 1995 Wisconsin Act 349.

f. In the treatment clause of SECTION 4, “(intro.)” should follow “(1).” The same addition should be made to the citation in the first paragraph of the text of the rule following the treatment clause.

g. The treatment clause of SECTION 5 should refer to s. LES 3.01 (1) (intro.). The notation “(intro.)” should follow sub. (1) in the text of the amended rule. See, also, SECTION 6 for a similar correction.

h. In s. LES 3.01 (1) (b) and (c), “shall” should replace “must.” [See s. 1.01 (2), Manual.]

i. In s. LES 3.03, sub. (1) should be an introductory clause and the subunits following the introductory clause should be numbered subsections rather than lettered paragraphs.

j. In the treatment clause of SECTION 7, “to” should replace “through.”

k. In s. LES 5.01 (3), there is no need to create a subunit. Further, when part of a section is divided into smaller subunits, at least two subunits must be created. [See s. 1.03 (intro.), Manual.]

l. In s. LES 6.02 (3), the board may wish to take this opportunity to replace “thereon” with “on the termination” and to substitute an appropriate cite for “these rules.”

m. In s. LES 3.03 (1) (g), “patrol vehicles” should replace “Patrol Vehicles.”

n. The rule needs an effective date clause. [See s. 1.02 (4), Manual.]

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

In s. LES 3.04 (2), the internal cross-references are not in proper form. [See s. 1.07 (2), Manual.] Also, all of the subdivision numbers should be followed by periods.

#### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. In s. LES 1.03 (22), should “tribe” be substituted for “tribal government”?

b. In s. LES 2.01 (1) (intro.), the first comma does not appear in the text of the current rule and should be eliminated.

c. The definition in s. LES 1.03 (1) is awkward. Since it appears to apply only to s. LES 2.01 (1) (e), perhaps the substance of the definition can be included in the text of the latter provision. If a definition is retained, it should be redrafted for better style. [See s. 1.01 (7), Manual.] Perhaps reference should be made instead to credits from an “accredited institution,” with a definition provided for the term. Reference to “fully” accredited credits in s. LES 2.01 (1) (e) should be eliminated as unnecessary.

d. In s. LES 3.01 (2) (a), “curriculum” should be “curriculum” and “are” should be “is.”

e. In s. LES 3.05 (5), the “or” following “system” should be “of.” See the text of the current rule. Also, at the beginning of the 9th line of s. LES 2.01 (1) (e), “of” should replace “or.”

f. Section LES 2.01 (1) (f) (intro.) should be written to read: “The applicant shall be of good character, as determined from a written report containing the results of the following:”.

g. Section LES 2.01 (1) (f) 1. should be revised by replacing “all applicants with” with “the applicant and.”

h. In s. LES 2.01 (1) (f) 2., “on” should replace the first “in.” The parentheses should be removed from “person(s).”

i. In s. LES 2.01 (1) (f) 3., “to” should precede “detect.”

j. In s. LES 3.01 (1) (b), “the” should precede “exception” and “achievements” should be in the singular. Is the meaning of the last sentence clear? Also, “the” should replace “such.” These comments also apply to s. LES 3.01 (2) (b).

k. SECTIONS 16 and 17 are awkward and unclear. Both ss. LES 3.03 and 3.04 are titled "CURRICULUM" and are cross-referenced in s. LES 3.01 (1) (a) and (2) (a) as identifying curriculum. However, the sections do not set forth curricula but list "instructional goals." The required curricula are to consist of "student performance objectives" approved by the board to "reach" the listed "instructional goals." What does this mean? Is the board going to promulgate student performance objectives by rule or rather approve them on a case-by-case basis? Clarification is in order, together with a complete rewrite of the sections.

l. Section LES 5.01 appears to add very little to current statutory provisions and arguably is not as clear as the statutory provisions. Can the section be shortened to avoid repetition of provisions in the statutes? In s. LES 5.01 (3) (intro.), "approved expenses incurred by" should follow the second "for."